



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

OCT - 1 2013

In reply refer to
DARS Tracking Number: 2013-O0020

MEMORANDUM FOR COMMANDER UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION AND PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Class Deviation–Prohibition on Contracting with the Enemy in the U.S. Central
Command Theater of Operations

Effective immediately, contracting officers shall comply with the policy in this class deviation, which applies to solicitations and contracts with an estimated value in excess of \$100,000, that are being, or will be, performed in the U.S. Central Command (USCENTCOM) theater of operations, and that will be awarded on or before December 31, 2014.

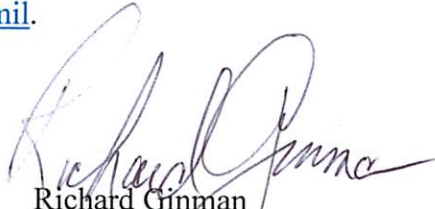
Class Deviation 2012-O0005, Prohibition on Contracting with the Enemy and Access to Contractor and Subcontractor Records in the USCENTCOM theater of operations, remains in effect. This new class deviation further implements section 841 of the National Defense Authorization Act (NDAA) for FY 2012 (Public Law 112-81) in accordance with the Special Inspector General for Afghanistan Reconstruction recommendations in its April 2013 report (Audit 13-6). Accordingly—

- Senior Procurement Executives (SPEs) shall develop a standard process for distributing the USCENTCOM Commander's section 841 notification memoranda to the Heads of Contracting Activities (HCAs) and, in turn, have their HCAs develop similar mechanisms for providing section 841 notification to prime contractors performing contracts in the USCENTCOM theater of operations.
- Prior to award of contracts that will be performed in the USCENTCOM theater of operations, and that will be awarded on or before December 31, 2014, contracting officers shall check the "NDAA FY12 Section 841 Identified Entities" information posted on the USCENTCOM website at <http://www2.centcom.mil/sites/contracts/SiteAssets/Contracting.aspx>. Section 841 provides that the authority to restrict awards may not be delegated below the HCA.

- Contracting officers shall periodically check the USCENTCOM website to ensure that none of the existing contracts being performed in the USCENTCOM theater of operations is associated with individuals or entities on the “NDAA FY12 Section 841 Identified Entities” list.
- Contracting officers shall require prime contractors performing in the USCENTCOM theater of operations to periodically check the USCENTCOM website and ensure none of their subcontracts is associated with an individual or entity on the “NDAA FY12 Section 841 Identified Entities” list.

In summary, section 841 requires the Commander, USCENTCOM, to identify persons or entities actively supporting an insurgency or otherwise actively opposing U.S. or coalition forces in the USCENTCOM theater of operations. When the USCENTCOM Commander determines any person or an entity is an enemy of the United States, SPEs are notified of such enemy determination via a memorandum “Subject: FY2012 National Defense Authorization Act, §841.” A list of such persons or entities is posted on the USCENTCOM website at <http://www2.centcom.mil/sites/contracts/SiteAssets/Contracting.aspx> under “NDAA FY12 Section 841 Identified Entities.”

This class deviation remains in effect until December 31, 2014, unless incorporated in the DFARS or otherwise rescinded. My point of contact is Ms. Kyoung Lee, who may be reached at 571-256-2947, or at kyoung.w.lee.civ@mail.mil.



Richard Ginman
Director, Defense Procurement
and Acquisition Policy